

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING
APRIL 16, 2008

WALLACE STATE OFFICE BUILDING
502 EAST 9TH STREET
DES MOINES, IOWA

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson David Petty at 1:05 p.m. on April 16, 2008 at the Wallace State Office Building, Des Moines, Iowa.

COMMISSIONERS PRESENT -

Suzanne Morrow, Secretary
Charlotte Hubbell, Vice-Chair
David Petty, Chair
Susan Heathcote
Henry Marquard – arrived at 2:30 PM
Paul Johnson – by telephone

COMMISSIONERS ABSENT

Ralph Klemme

DIRECTORS REMARKS

Director Richard Leopold went through the options that are before the Commission today. He also encouraged the Commissioners to make a decision today in order to get the rulemaking process started and the rules implemented. Cities, agriculture and industries are waiting.

INFORMATIONAL ONLY

FINAL RULE – CHAPTER 61 – WATER QUALITY STANDARDS (STREAM RECLASSIFICATIONS VIA USE ASSESSMENT AND USE ATTAINABILITY ANALYSES)

These stream descriptions are subject to non-substantive corrections to conform to the format used in the stream classification document. With the inclusion of the modifications described above, the final rules adopt changes to the Commission's Water Quality Standards (WQS) as summarized below:

1. Revise and list approximately **100** river and stream segments as Class A2 Secondary Contact Recreational Use designated waters in the rule-referenced document "Surface Water Classification."
2. Revise and list approximately **136** river and stream segments as both Class A2 Secondary Contact Recreational Use and Class B(WW-2) Warm Water-Type 2 designated waters in the rule-referenced document "Surface Water Classification."

3. Revise and list 4 stream segments as both Class A2 Secondary Contact Recreational Use and Class B(WW-3) Warm Water-Type 3 designated waters in the rule-referenced document "Surface Water Classification."

4. Revise and list **11** river and stream segments as both Class A3 Children's Recreational Use and Class B(WW-2) Warm Water-Type 2 designated waters in the rule-referenced document "Surface Water Classification."

5. Revise and list 31 river and stream segments as Class A3 Children's Recreational Use designated waters in the rule-referenced document "Surface Water Classification."

6. Revise and list 5 river and stream segments as Class B(WW-2) Warm Water-Type 2 designated waters in the rule referenced document "Surface Water Classification."

7. Revise and list 9 stream segments as Class B(WW-2) Warm Water-Type 2 and no recreational use designated waters in the rule-referenced document "Surface Water Classification."

8. Revise and list 1 stream segment as Class B(WW-3) Warm Water-Type 3 and no recreational use designated waters in the rule-referenced document "Surface Water Classification."

The Commissioners decided to go through each stream individually and express their concerns on why they believe it should be classified to A1 or A3.

Motion was made by Charlotte Hubbell to untable the Final Rule – Chapter 61 from last week's meeting. Seconded by Susan Heathcote. Motion carried unanimously.

1. Badger Creek in Warren County from 25th Street to the confluence with the North River.

Susan Heathcote recommended A1; based on Warren County Conservation Board's documentation of swimming and canoeing.

Charlotte Hubbell suggested that the protocol be changed to include looking at seasonal flow, instead of only base flow.

Susan Heathcote said that she doesn't think we can assess only under recreational uses, it should also include aquatic.

2. Bear Creek near Shellsburg from the mouth to Palo Marsh Road.

Susan Heathcote recommended A3; since it goes through wildlife area and Linn County Conservation Board noted an observation of kids play.

3. Beaver Creek in Butler County from Moore's access to the confluence with the Cedar River.

Susan Heathcote recommended A1; public official testimony and the Butler County Conservation Board testified that in the past canoeing and kayaking did take place.

4. Beaver Creek in Polk and Dallas County from the confluence with the D.M. River to the Dallas\Boone County line.

Susan Heathcote recommended A1; based on public comment of swimming and canoeing when flows are high

5. Boyer River – entire reach

Susan Heathcote recommended A1; based on adequate depths

6. Brushy Creek within the Brushy Creek State Recreation Area

Susan Heathcote recommended A1; based on state recreational area & depth at site 494-1a

7. Buckeye Creek in Wapello County from the mouth to 215th Street.

Susan Heathcote recommended A3; based on Wapello County Conservation Board saying that recreation and kids play occurs when flows are elevated, also a public land area

8. Buffalo Creek from the Buffalo Creek park Boundary to 220th Street.

Susan Heathcote recommended A1; based on kid's play and canoeing when there is seasonal high flows

9. Cedar Creek in Greene and Calhoun County from the mouth to the upper boundary of the University 40 Park.

Susan Heathcote recommended A1; based on seasonal depths adequate to support recreational uses and kids play

10. Cedar Creek in Sac, Calhoun and Pocahantas County from the mouth to the 196th St. Bridge.

Susan Heathcote recommended A1; based on recreational use during seasonal high flows and public comments

11. Clear Creek from the area currently proposed to be designated A3 upstream to the confluence with the unnamed creek near Chambers Rd.

Susan Heathcote recommended A3; based on comments received regarding aquatic education

12. Hardin Creek in Greene and Calhoun County from its mouth to 170th Street.

Susan Heathcote recommended A1; based on public comment that recreational uses occur during seasonal high flows

13. Lake Creek in Calhoun County from the confluence with the unnamed creek in Section 11, T 86 N, R 34 W to the confluence with the unnamed creek in Section 12, T 86 N, R 34 W.

Susan Heathcote recommended A3; based on public comments regarding kids play and Macke Park nearby.

14. Linn Creek in Marshall County from 18th street to the bridge at Marshalltown Rd aka Marshall Blvd.

Susan Heathcote recommended A3; based on recreational areas, bike paths, urban/residential areas and parks in the vicinity

15. Lotts Creek in Humboldt County between Michigan and Montana Avenues.

Susan Heathcote recommended A3; based on public comments regarding tubing and public use area

16. Middle Raccoon River in Carroll County from area currently proposed to be designated A3 upstream to the confluence with unnamed creek above last Sauk Rail Trail bridge.

Susan Heathcote recommended A3; based on Sauk Rail Trail and comments regarding kids play

17. Trout Creek from the confluence with the Upper Iowa River to the Decorah Trout Hatchery.

Susan Heathcote recommended A3; based on kids play, wading, trail, fly fishing

18. Milford Creek from the mouth to Lower Gar Lake.

Susan Heathcote recommended A3; based on letter from City of Milford, written public comments during EPC meeting from local officials and resident

Motion was made by Susan Heathcote to amend agenda item #2 – Final Rule for the amendment of Chapter 61 in regard to stream designations by removing the following stream segments from the rulemaking because the Commission has determined that these streams warrant an A1 recreational use designation for the reasons set forth on the record today:

1) Badger Creek in Warren County from 25th Street to the confluence with the North River.

2) Beaver Creek in Butler County from Moore's access to the confluence with the Cedar River.

3) Beaver Creek in Polk and Dallas County from the confluence with the D.M. River to the Dallas\Boone County line

4) Boyer River – entire reach

5) Brushy Creek withing the Brushy Creek State Recreation area

- 6) Buffalo Creek from the Buffalo Creek park boundry to 220th street*
 - 7) Cedar Creek in Greene and Calhoun County from the mouth to the upper boundary of the University 40 Park.*
 - 8) Cedar Creek in Sac, Calhoun and Pocahantas County from the mouth to the 196th St. Bridge.*
 - 9) Hardin Creek in Greene and Calhoun County from its mouth to 170th Street.*
- Seconded by Sue Morrow. Motion carried unanimously.*

Motion was made by Charlotte Hubbell to amend Agenda Item #2 – Final Rule for the amendment of Chapter 61 in regard to stream designations by changing the following stream segments to an A3 recreational use designation for the reasons set forth on the record today:

- 1) Bear Creek near Shellsburg from the mouth to Palo Marsh Road*
 - 2) Buckeye Creek in Wapello County from the mouth to 215th Street*
 - 3) Clear Creek from the area currently proposed to be designated A3 upstream to the confluence with the unnamed creek near Chambers Rd.*
 - 4) Lake Creek in Calhoun County from the confluence with the unnamed creek in Section 11, T 86 N, R 34 W to the confluence with the unnamed creek in Section 12, T 86 N, R 34 W*
 - 5) Linn Creek in Marshall County from 18th street to the bridge at Marshalltown Rd aka Marshall Blvd.*
 - 6) Lotts Creek in Humboldt County between Michigan and Montana Avenues*
 - 7) Middle Racoon River in Carroll County from area currently proposed to be designated A3 upstream to the confluence with unnamed creek above last Sauk Rail Trail bridge*
 - 8) Trout Creek from the confluence with the Upper Iowa River to the Decorah Trout Hatchery*
 - 9) Milford Creek from the mouth to Lower Gar Lake*
- Seconded by Susan Heathcote. Motion carried unanimously.*

Motion was made by Henry Marquard to approve the final rule as amended. Seconded by Charlotte Hubbell. Motion carried unanimously.

APPROVED AS AMENDED

GENERAL DISCUSSION

The Commissioners expressed their genuine thanks to the DNR staff and all of their hard work to bring us to this point.

NEXT MEETING DATES

May 12, 2008 – Joint NRC/EPC meeting – Racoon River Nature Lodge, West Des Moines

April 2008

Environmental Protection Commission Minutes

May 13, 2008 – DNR Air Quality Building, 7900 Hickman Rd., Urbandale

ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Chairperson David Petty adjourned the meeting at 6:45 p.m., Tuesday, April 8, 2008.

Richard A. Leopold, Director

David Petty, Chair

Suzanne Morrow, Secretary

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